

CHAPTER 47:02:02

ELECTIONS

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47:02:02:01. Service of documents. Service of a document authorized or required by the Act or this article may be effected upon employees by posting the document on the employer's premises in one or more conspicuous spots where all employees have access and can see it in their general day-to-day business.

Service of a document may be effected upon all other parties and the division by personal service, by registered or certified mail, by ~~telegraph~~, facsimile, electronically, or by leaving a copy in the principal office or place of business of persons to be served. The verified return by the individual serving the document, setting forth the manner of the service, is proof of service. The return post office receipt ~~or telegraph receipt~~, , facsimile confirmation receipt, or electronic delivery receipt when the document is registered or certified and mailed ~~or telegraphed~~, , facsimiled, or electronically transmitted, is proof of service.

Service upon the chief administrative official of the employer is service upon members of the board. If a party appears by attorney, all papers may be served upon the attorney with the same force and effect as though served upon the party. The division may serve a document upon employees by serving an extra copy with the employer with instructions that it be posted in accordance with this rule.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983.

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-5.

47:02:02:02. Prior request to communicate required. Before filing a petition under this article, the petitioner must first have filed a written request with all of the parties and with the division, stating its desire to be recognized, to have a determination of a unit made, to have a representative chosen, or any combination of these. A request may be on forms approved by the division ~~or by letter~~ , by letter, by facsimile, or by electronic transmission. Upon showing that the parties have in fact held discussions which have been open to all the parties and of which all the parties have been notified this section may be waived.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983.

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-4, 3-18-5.

47:02:02:04. Contents of petition. When a petition is filed by an employee organization, it must state that the organization:

- (1) Represents at least 30 percent of the members of the proposed unit;
- (2) Does not assert the right to strike against the state of South Dakota or any subdivision of the state or to assist or participate in a strike and does not impose a duty or obligation to conduct, assist, or participate in a strike in violation of South Dakota law;
- (3) Does not advocate the overthrow of the constitutional form of government in the United States;
- (4) Does not discriminate with regard to the terms or conditions of membership because of race, color, creed, or national origin. This section shall not be construed as limiting the right to advocate peaceful and legal changes in existing law.

The petition must also state the petitioner's name, address, affiliation if any, and the name, title, address, telephone number, facsimile number, and email address of the individual who will serve as the petitioner's representative and accept service of any papers in connection with the representation proceeding;

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983.

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-4.

47:02:02:04.01. Decertification petition. One or more employees,—a ~~governmental agency,~~ or a labor or employee organization seeking decertification of an employee organization as a bargaining representative must file a petition stating ~~that:~~

~~(1) At least 30 percent of the unit members represented by the organization support the petition; or~~

~~—(2) The petitioning employees are treated substantially differently than other unit members in their hiring, termination, promotion, hours, pay, or essential mission.~~

(1) A description of the affected bargaining unit;

(2) The petitioner's name, address, affiliation if any, and the name, title, address, telephone number, facsimile number, and email address of the individual who will serve

as the petitioner's representative and accept service of any papers in connection with the representation proceeding;

(3) The name and address of the incumbent bargaining representative;

(4) If the incumbent representative was certified, whether the certification has been for at least a calendar year;

(5) The expiration date, if any, of the contract between the affected governmental agency and the incumbent bargaining representative;

(6) An allegation that a substantial number of employees in the described unit no longer wish to be represented by the incumbent representative. Evidence supporting the statement shall be filed with the petition, but does not have to be served on any party;

(7) If the petitioner seeks recognition or certification of an alternate representative, the petitioner shall include allegations in the decertification petition meeting the requirements of 47:02:02:04;

(8) Any other relevant facts.

Source: 24 SDR 7, effective July 30, 1997.

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-5.

47:02:02:04.02. Clarification petition. One or more employees, a governmental agency, or a labor or employee organization questioning representation by an incumbent representative must file a petition stating:

(1) A description of the affected bargaining unit;

(2) The petitioner's name, address, affiliation if any, and the name, title, address, telephone number, facsimile number, and email address of the individual who will serve as the petitioner's representative and accept service of any papers in connection with the representation proceeding;

(3) The name and address of the incumbent bargaining representative;

(4) If the incumbent representative was certified, whether the certification has been for at least a calendar year;

(5) The expiration date, if any, of the contract between the affected governmental agency and the incumbent bargaining representative;

(6) An allegation that a substantial number of employees in the described unit no longer wish to be represented by the incumbent representative. Evidence supporting the statement shall be filed with the petition, but does not have to be served on any party;

(7) If the petitioner seeks recognition or certification of an alternate representative, the petitioner shall include statements in the clarification petition meeting the requirements of 47:02:02:04;

(8) Any other relevant facts.

Source:

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-5.

47:02:02:08. Service of notice of petition. ~~The original and three copies of the~~ petition shall be filed with the division. Upon receipt, provided the waiting period under

§ 47:02:02:06 has passed, the division shall serve a copy of the petition on each party named in the petition. Notice to the employees shall be made pursuant to § 47:02:02:01. If a party becomes known to the division after notices of the petition have been served, the party shall be served according to § 47:02:02:01 when it becomes known, but this shall not extend the waiting period provided for in § 47:02:02:06.

Source: SL 1975, ch 16, § 1; 9 SDR 81, 9 SDR 124, effective July 1, 1983.

General Authority: SDCL 3-18-6.

Law Implemented: SDCL 3-18-4, 3-18-5.

47:03:05:01. Definitions. Terms used in this chapter mean:

(1) "Anesthesia services," administration of any drug or combination of drugs with the purpose of creating sedation or analgesia;

(2) "Base unit value," the number value assigned to services in **Relative Values for Physicians**;

(3) "Dental services," the examination, diagnosis, treatment, planning, and care of conditions within the human oral cavity and its adjacent tissues and structures, to operate for any disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums, or jaw or adjacent or associated structures;

(4) "Department," the Department of Labor and Regulation;

(5) "Employee," an employee entitled to medical services, dental services, or treatment for a compensable injury or disability under SDCL 62-4-1;

(6) "Health care provider," a person or entity providing medical services, dental services, or treatment to an employee for a compensable injury or disability;

(7) "Insurer," an entity providing workers' compensation insurance, including self-insured employers;

(8) "Medical services" or "treatment," a procedure, operation, consultation, supply, or product provided for the purpose of curing or relieving an employee of the effects of a compensable injury or disability;

(9) "Medical fee schedule," the maximum allowable fee for medical services or treatment determined according to the procedures established in this chapter;

(10) "Physical status modifier unit value," the number value assigned to physical status modifiers for anesthesia services in **Relative Values for Physicians**;

(11) "Procedure code," a numerical code used to identify a specific medical service, article, or supply;

(12) "Professional services," examination of a patient, performance or supervision of a medical procedure, dental procedure, or laboratory test, interpretation or written report concerning an examination or laboratory test, consultation with referring physicians, or similar services;

(13) "Qualifying circumstances unit value," the number value assigned to qualifying circumstances for anesthesia services in **Relative Values for Physicians**;

(14) "Technical services," performance of laboratory or radiological diagnostic procedures;

(15) "Unit value," the number value assigned to a dental service in **Relative Values for Dentists**;

(16) "Usual and customary charges," charges or fees that prevail in the community regardless of payer source.

Source: 21 SDR 67, effective October 13, 1994; 23 SDR 23, August 22, 1996; 24 SDR 7, effective July 30, 1997; 25 SDR 72, effective November 22, 1998; 32 SDR 209, effective June 14, 2006; 33 SDR 226, effective June 27, 2007; 34 SDR 310, effective June 19, 2008; 38 SDR 105, effective December 12, 2011; 39 SDR 219, effective June 26, 2013; effective June 28, 2016.

General Authority: SDCL 62-7-8.

Law Implemented: SDCL 62-7-8.

References: **Relative Values for Dentists**, 2009 edition, published by Relative Value Studies, Inc. Copies may be obtained from Relative Value Studies, Inc., 1675 Larimer Street, Suite 410, Denver, CO 80202; <https://www.rvsdata.com/rvs-bin/order1a.cgi#oprvd>. Cost: \$70.

Relative Values for Physicians, Relative Value Studies, Inc., ~~2016~~ 2017, published by Optum360, LLC. Copies may be obtained from Optum360, LLC, PO Box 88050, Chicago, IL 60680-9920. Cost: \$329.95.

47:03:05:02. Incorporation of Relative Values for Physicians. Except as otherwise provided in this chapter, the definitions and procedures for determining reimbursement for medical services or treatment are those set forth in **Relative Values for Physicians**, Relative Value Studies, Inc.

Source: 21 SDR 67, effective October 13, 1994; 25 SDR 72, effective November 22, 1998; 29 SDR 55, effective October 28, 2002; 29 SDR 182, effective July 6, 2003; 31

SDR 220, effective July 12, 2005; 32 SDR 209, effective June 14, 2006; 33 SDR 226, effective June 27, 2007; 34 SDR 310, effective June 19, 2008; 38 SDR 105, effective December 12, 2011; 39 SDR 100, effective December 6, 2012; 39 SDR 219, effective June 26, 2013; 42 SDR 177, effective June 28, 2016.

General Authority: SDCL 62-7-8.

Law Implemented: SDCL 62-7-8.

Reference: **Relative Values for Physicians**, Relative Value Studies, Inc., ~~2016~~ 2017, published by Optum360, LLC. Copies may be obtained from Optum360, LLC, PO Box 88050, Chicago, IL 60680-9920. Cost: \$329.95.

47:03:05:05. Reimbursement criteria. To be reimbursed, the charge must be for reasonable and necessary services for the cure or relief of the effects of a compensable injury or disability. A health care provider is not entitled to payment from an insurer or employee for fees in excess of the maximum reimbursement allowed under this chapter.

Except as otherwise provided in this chapter, to determine the maximum reimbursement for services, the base unit value for a procedure code is multiplied by the following factors:

Procedure Code	Factor
10000-69999	\$99.71 <u>\$100.29</u>
70000-79999	\$18.88 <u>\$18.97</u>
80000-89999	\$15.12 <u>\$15.20</u>

90000-95906	\$6.50 <u>\$6.53</u>
95907-95913	\$8.30 <u>\$8.34</u>
95914-99071	\$6.50 <u>\$6.53</u>
99075	\$14.29 1 st hour, \$1.78 each additional 15 min
99076-99199	\$6.50 <u>\$6.53</u>
99201-99450	\$7.92 <u>\$7.96</u>
99455-99456	\$19.23 1 st hour, \$2.41 each additional 15 min
99460-99499	\$7.92 <u>\$7.96</u>
99500-99607	\$6.50 <u>\$6.53</u>

If a code is properly submitted for one of these services, but is not listed in **Relative Values for Physicians**, or the base unit value is RNE or BR, the reimbursement is 80% of the provider's charge.

Source: 21 SDR 67, effective October 13, 1994; 23 SDR 23, effective August 22, 1996; 38 SDR 105, effective December 12, 2011; 39 SDR 100, effective December 6, 2012; 39 SDR 219, effective June 26, 2013; 42 SDR 177, effective June 28, 2016.

General Authority: SDCL 62-7-8.

Law Implemented: SDCL 62-7-8.

Cross-Reference: Properly submitted medical bill, § 47:03:09:01.

Reference: **Relative Values for Physicians**, Relative Value Studies, Inc., ~~2016~~ 2017, published by Optum360, LLC. Copies may be obtained from Optum360, LLC, PO Box 88050, Chicago, IL 60680-9920. Cost: \$329.95.